

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY MANNS,

Petitioner,

v.

TRATE,

Respondent.

No. 1:23-cv-01382-SKO (HC)

**ORDER STAYING FINDINGS AND
RECOMMENDATION**
[Doc. 5]

**ORDER GRANTING PETITIONER'S
MOTION TO AMEND PETITION**
[Doc. 7]

[THIRTY DAY DEADLINE]

Petitioner is a federal prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. He filed his petition on September 22, 2023. Petitioner takes issue with a disciplinary proceeding in which he was found guilty of possessing alcohol. On September 27, 2023, the Court issued Findings and Recommendations to dismiss the petition because it failed to state a claim for relief. (Doc. 5.)

On October 24, 2023, Petitioner filed the instant motion to amend the petition. (Doc. 7.) Petitioner contends he can present a cognizable claim for relief if he is permitted to file an amended petition. The Federal Rules of Civil Procedure require that “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). This policy is to be applied with “extreme liberality,” Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1041 (9th Cir. 2003), and “[a]mendments seeking to add claims are to be granted more freely than

1 amendments adding parties.” Union Pacific R. Co. v. Nevada Power Co., 950 F.2d 1429, 1432
2 (9th Cir. 1991). Given this liberal standard governing motions to amend, the Court will grant
3 Petitioner’s motion.

4 Accordingly, IT IS HEREBY ORDERED:

- 5 1) The Findings and Recommendations issued on September 27, 2023, are STAYED;
- 6 2) Petitioner’s motion to amend is GRANTED; and
- 7 3) Petitioner is DIRECTED to file a First Amended Petition within thirty (30) days of the
8 date of service of this order. Petitioner is advised that he should reference the above
9 case number and reference his pleading as a First Amended Petition.

10 IT IS SO ORDERED.

11 Dated: **October 25, 2023**

/s/ Sheila K. Oberto
12 UNITED STATES MAGISTRATE JUDGE
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